

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 24867 of 2007(I)

PETITIONERS:

- 1. E.K.BRAMADAS, S/O.KARUPPAN,
VENKIDANGU, CHAVAKKAD.**
- 2. SHYLAJA BRAMADAS,
W/O.BRAMADAS, VENNANGHOT HOUSE,
VENKIDANGU, CHAVAKKAD.**

BY ADV. SRI.C.HARIKUMAR

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE INSPECTOR GENERAL OF POLICE,
CENTRAL RANGE, THRISSUR.**
- 2. THE DY.SUPERINTENDENT OF POLICE,
KUNNAMKULAM.**
- 3. S.I.OF POLICE, PAVARATTY.**
- 4. BABU K.G., KURUMBUR HOUSE,
ORUMANAYOOR, CHAVAKAD.**

**BY ADV. SRI.O.V.MANIPRASAD
GOVERNMENT PLEADER SRI.SALIM . P.A.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C) NO. 24867/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AGREEMENT DT. 3.8.04.

EXT.P2:- COPY OF THE RELEVANT PAGES OF THE PAYMENT MADE BY THE FIRM AS REVEALED FROM THE BOOK MAINTAINED FOR THE PURPOSE OF THE JANAKEEYA COMMITTEE.

EXT.P3:- COPY OF THE RECEIPT DT. 5.4.02.

EXT.P4:- COPY OF THE WITHDRAWAL BY THE 4TH RESPONDENT.

EXT.P4(a):- -DO- -DO-

EXT.P4(b):- -DO- -DO-

EXT.P4(c):- -DO- -DO-

EXT.P4(d):- DO- DO-

EXT.P4(e):- -DO- -DO-

EXT.P5:- COPY OF THE COMPLAINT DT. 14.8.07 BEFORE THE 2ND RESPONDENT.

EXT.R3(a):- COPY OF THE PETITION SUBMITTED BY THE 4TH RESPONDENT TO THE CI OF POLICE GURUVAYUR.

EXT.PR3(b):- COPY OF THE FD RECEIPT DT. 23.10.02.

EXT.PR3(c):- COPY OF THE COMPLAINT FILED BY RAVEENDRAN , ORUMANAYOOR.

/TRUE COPY/

P.A. TO JUDGE

tss

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.24867 of 2007-I

Judgment

Balakrishnan Nair, J.

The petitioners are respectively, the Managing Partner and the Partner of a firm called, "Aiswarya Financiers". It was engaged in the kuri business. Later, it started accepting deposits also. Since the petitioners could not repay the kuri amounts or the amounts received by way of deposits, the depositors and their customers stated complaining. The petitioners submit, a janakiya samithy of the depositors was formed and an understanding has been arrived at with them regarding payment of the amounts due to the members of the samithy and a priority list has been drawn up. While so, the 4th respondent filed a complaint before the third respondent and the Police is compelling the petitioner to repay the amount due to the 4th respondent. Thereby, the said respondent is trying to jump the queue and receive the amount due to him out of turn. Since the Police is harassing the petitioners to pay the amounts due to the 4th respondent, this Writ Petition is filed, seeking appropriate directions against the police not to harass them.

2. The learned Government Pleader on behalf of the official

respondents submitted that a few complaints have been received against the petitioners regarding cheating and based on them, the petitioners were asked to appear before the Police, but they failed to co-operate with the police. The 4th respondent submits that the amounts due to him have not been released by the petitioners and therefore, he moved the Police alleging cheating from their part.

3. We heard the learned counsel on both sides. Having regard to the facts of the case and the commissions and omissions of the petitioners, in not repaying the amounts due to the subscribers of the kuri and also the non-payment of the amounts deposited by their customers, we feel that this Court should not exercise its discretionary jurisdiction and issue any direction in favour of the petitioners. If their rights are infringed by the Police or the 4th respondent, they can move the competent civil/criminal court as the case may be. Without prejudice to their right in this regard and their contentions, the Writ Petition is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

22.10.2007

T.R.RAMACHANDRAN NAIR, JUDGE

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